



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

STONEGATE SURGERY CENTER  
2501 W WILLIAM CANNON DRIVE SUITE 301  
AUSTIN TX 78745

#### **Respondent Name**

INDEMNITY INSURANCE CO OF NORTH AMERICA

#### **Carrier's Austin Representative Box**

Box Number 15

#### **MFDR Tracking Number**

M4-11-3435-01

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "Sedgwick CMS denied CPT 29823 (shoulder arthroscopy, extensive debridement) as included in the charge for another procedure and as most extensive procedure, even though we billed this charge with the -59 modifier, as, according to the CCE Edits, 29824 & 29823 are CCled with each other with a modifier permitted if the documentation supports it – and the operative report does support 29823-59, in my opinion." "I mailed an appeal to Sedgwick CMS on 03/07/11 explaining why 29823-59 was eligible for reimbursement, as it was performed in a separate compartment of the shoulder than 29824 (and 29826). Sedgwick maintained their denial, however, according to the EOB dated 04/05/11. I did not consider the appeal response appropriate, as it did not explain in detail why Sedgwick maintained their 29823-59 denial, so I placed several calls to Sedgwick CMS, to Corvel, the Bill Review company, and to the adjuster, but I cannot get anyone to discuss the reason for the 29823-59 denial with me in detail. See the attached pages detailing the calls I made. My position remains that 29823-59 should be paid as explained in my appeal letter dated 03/07/11, and therefore we are filing this MFDR. "

**Amount in Dispute:** \$2152.13

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** The respondent did not submit a response to this request for medical fee dispute resolution.

**Response Submitted by:** None

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 14, 2011	ASC Services for Code 29823-SG-59	\$2152.13	\$2151.68

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

## **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.402, titled *Ambulatory Surgical Center Fee Guideline*, effective August 31, 2008, sets out the reimbursement guidelines for ambulatory surgical care services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated March 1, 2011

- 97-Charge included in another Charge or Service
- R84-CCI; Most Extensive Procedures

Explanation of benefits dated April 5, 2011

- 168-No additional allowance recommended.
- 97-Charge included in another Charge or Service
- R84-CCI; Most Extensive Procedures

## **Issues**

1. Is CPT code 29823-SG-59 a component of code 29824?
2. Is the requestor entitled to reimbursement for code 29823-SG-59?

## **Findings**

1. The respondent denied reimbursement for CPT code 29823-SG-59 based upon reason code "97-Charge included in another Charge or Service".

On the disputed date of service, the requestor billed CPT codes 29824, 29826, 29823, 29805, 23700 and 64415.

Per NCCI edits, CPT code 29823 is a component of CPT code 29824, however, the use of an appropriate modifier is allowed.

The requestor appended modifier -59 to code 29823 to delineate that it was a separate service.

CPT code 29823 is defined as "Arthroscopy, shoulder, surgical; debridement, extensive".

Modifier -59 is defined as "Under certain circumstances, it may be necessary to indicate that a procedure or service was distinct or independent from other non-E/M services performed on the same day. Modifier 59 is used to identify procedures/services, other than E/M services, that are not normally reported together, but are appropriate under the circumstances. Documentation must support a different session, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries) not ordinarily encountered or performed on the same day by the same individual. However, when another already established modifier is appropriate it should be used rather than modifier 59. Only if no more descriptive modifier is available, and the use of modifier 59 best explains the circumstances, should modifier 59 be used. Note: Modifier 59 should not be appended to an E/M service."

The Operative report indicates that "A diagnostic arthroscopy of the glenohumral joint and subacromial bursa was then performed...An extensive debridement of the intra-articular debris was then performed." "Attention was then turned to the distal clavicle...the acromioclavicular capsule was removed. Hypertrophy was noted of the distal clavicle impingement on the rotator cuff. Using the arthroscopic bur, the distal 1 cm of the clavicle was removed."

The operative report supports that CPT code 29823 was performed in a different compartment of the shoulder than code 29824; therefore, it is not a component of 29824 and reimbursement is recommended.

2. 28 Texas Administrative Code §134.402(d) states " For coding, billing, and reporting, of facility services covered in this rule, Texas workers' compensation system participants shall apply the Medicare payment policies in effect on the date a service is provided with any additions or exceptions specified in this section."

28 Texas Administrative Code §134.402(f)(1)(A) states "The reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the *Federal Register*. Reimbursement shall be based on the fully implemented payment amount as in ADDENDUM AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 publication of the *Federal Register*, or its successor. The following minimal modifications apply: (1) Reimbursement for non-device intensive procedures shall be: (A) The Medicare ASC facility reimbursement amount multiplied by 235 percent."

The MAR for HCPCS code 29823-SG-59 is \$2151.68. The respondent paid \$0.00. The difference between the MAR and amount paid is \$2151.68; this amount is recommended for additional reimbursement.

### **Conclusion**

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation supports the reimbursement amount sought by the requestor. The Division concludes that the requestor supported its position that additional reimbursement is due. As a result, the amount ordered is \$2151.68.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$2151.68 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### **Authorized Signature**

_____	_____	5/15/2012
Signature	Medical Fee Dispute Resolution Officer	Date

### ***YOUR RIGHT TO REQUEST AN APPEAL***

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**